

National Indian Gaming Commission, Interior

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estate, consortium, tribe, or other entity that owes a debt to the United States, excluding the United States.

(r) *Salary offset* means a payroll procedure to collect debt under 5 U.S.C. 5514 and 31 U.S.C. 3716 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee, without the employee's consent.

(s) *Tax refund offset* means the reduction of a tax refund by the amount of a past-due legally enforceable debt.

§ 513.2 What is the Commission's authority to issue these regulations?

(a) The Commission has authority to issue these regulations under 25 U.S.C. 2713(a)(1) of the Indian Gaming Regulatory Act. The Commission is issuing the regulations in this part under the authority of: The FCCS, the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, 31 U.S.C. 3711, 3716-3718, and 3720A. In addition, the salary offset provisions are issued in conformity with 5 U.S.C. 5514 and its implementing regulations published at 5 CFR part 550, subpart K.

(b) The Commission hereby adopts the provisions of the FCCS (31 CFR parts 900-904). The Commission's regulations supplement the FCCS as necessary.

§ 513.3 What happens to delinquent debts owed to the Commission?

(a) The Commission will collect debts in accordance with these regulations in this part.

(b) The Commission will transfer to the Department of the Treasury any past due, legally enforceable nontax debt that has been delinquent for 180 days or more so that Treasury may take appropriate action to collect the debt or terminate collection action in accordance with 5 U.S.C. 5514, 26 U.S.C. 6402, 31 U.S.C. 3711 and 3716, the FCCS, 5 CFR 550.1108, and 31 CFR part 285.

(c) The Commission may transfer any past due, legally enforceable nontax debt that has been delinquent for fewer than 180 days to the Department of Treasury for collection in accordance with 5 U.S.C. 5514, 26 U.S.C. 6402, 31 U.S.C. 3711 and 3716, the FCCS, 5 CFR 550.1108, and 31 CFR part 285.

§ 513.4 What notice will the Commission give to a debtor of the Commission's intent to collect debts?

(a) When the Chairman determines that a debt is owed to the Commission, the Chairman will send a written notice (Notice), also known as a demand letter. The Notice will be sent by facsimile or mail to the most current address known to the Commission. The Notice will inform the debtor of the following:

(1) The amount, nature, and basis of the debt;

(2) The methods of offset that may be employed;

(3) The debtor's opportunity to inspect and copy agency records related to the debt;

(4) The debtor's opportunity to enter into a written agreement with the Commission to repay the debt;

(5) The Commission's policy concerning interest, penalty charges, and administrative costs, as set out in § 513.5, including a statement that such assessments must be made against the debtor unless excused in accordance with the FCCS and this part;

(6) The date by which payment should be made to avoid late charges and enforced collection;

(7) The name, address, and telephone number of a contact person or office at the Commission that is available to discuss the debt; and

(8) The debtor's opportunity for review.

(b) A debtor whose debt arises from a notice of violation and/or civil fine assessment that has become a final order and that was subject to the Commission's appeal procedures at 25 CFR part 577 may not re-litigate matters that were the subject of the final order.

§ 513.5 What is the Commission's policy on interest, penalty charges, and administrative costs?

(a) Interest.

(1) The Commission will assess interest on all delinquent debts unless prohibited by statute, regulation, or contract.

(2) Interest begins to accrue on all debts from the date that the debt becomes delinquent. The Commission

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will assess interest at the rate established annually by the Secretary of the Treasury under 31 U.S.C. 3717.

(b) Penalties. The Commission will assess a penalty charge of 6 percent a year on any portion of a delinquent debt.

(c) Administrative costs. The Commission will assess charges to cover administrative costs incurred as a result of the debtor's failure to pay a debt before it becomes delinquent. Administrative costs include the cost of providing a copy of the file to the debtor and costs incurred in processing and handling the debt because it became delinquent, such as costs incurred in obtaining a credit report or in using a private collection contractor, or service fees charged by a Federal agency for collection activities undertaken on behalf of the Commission.

(d) Interest, penalties, and administrative costs will continue to accrue throughout any appeal process.

(e) Allocation of payments. A partial or installment payment by a debtor will be applied first to outstanding penalty assessments, second to administrative costs, third to accrued interest, and fourth to the outstanding debt principal.

(f) Additional authority. The Commission may assess interest, penalty charges, and administrative costs on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under common law or other applicable statutory authority.

(g) Waiver. (1) Regardless of the amount of the debt, the Chairman may decide to waive collection of all or part of the accrued interest, penalty charges, or administrative costs if collection of these charges would be against equity and good conscience or not in the Commission's best interest.

(2) A decision to waive interest, penalty charges, or administrative costs may be made at any time before a debt is paid. However, when charges have been collected before the waiver decision, they will not be refunded. The Chairman's decision whether to waive collection of these charges is final and not subject to further review.

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§513.6 What are the requirements for offset review?

(a) The Commission will provide the debtor with a reasonable opportunity for an oral hearing when the debtor requests reconsideration of the debt and the Commission determines that the question of indebtedness cannot be resolved by review of the documentary evidence.

(b) Unless otherwise required by law, an oral hearing is not required to be a formal evidentiary hearing, although the Commission will carefully document all significant matters discussed at the hearing.

(c) When an oral hearing is not required, the Commission will review the request for reconsideration based on the written record.

§513.7 What is the Commission's policy on revoking a debtor's ability to engage in Indian gaming for failure to pay a debt?

The Chairman of the Commission may revoke a debtor's ability to operate, manage, or otherwise participate in the operation of an Indian gaming facility if the debtor inexcusably or willfully fails to pay a debt. The revocation of ability to engage in gaming may last only as long as the debtor's indebtedness.

Subpart B—Administrative and Tax Refund Offset

§513.20 What debts can the Commission refer to Treasury for collection by administrative and tax refund offset?

(a) The Commission may refer any past due, legally enforceable nonjudgment debt of a person to the Treasury for administrative and tax refund offset if the debt:

(1) Has been delinquent for at least three months and will not have been delinquent more than 10 years at the time the offset is made;

(2) Is at least \$25.00 or another amount established by Treasury.

(b) Debts reduced to judgment may be referred to Treasury for tax refund offset at any time.